



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,176	10/16/2003	Thomas E. Chefalas	YOR920030435US1	8837
35526 7590 04/10/2007 DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER INGBERG, TODD D	
			ART UNIT	PAPER NUMBER
			2193	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/687,176

Applicant(s)

CHEFALAS ET AL.

Examiner

Todd Ingberg

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/13/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1 – 24 have been examined.

Information Disclosure Statement

1. The Information Disclosure Statement filed October 16, 2003 has been considered.

Specification

2. Examiner requests the Applicant complete page 1 of the Specification with an amendment.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 –6 and 9 - 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims appear to be lacking critical steps that would resemble an advancement in technology. Examiner has provided a claim interpretation under the claims to indicate the indefiniteness of the present limitations. Although, the claims are part of the original disclosure, the legal claim for exclusivity of claims could be interpreted as mundane tasks which have been performed for decades. Script also lacks sufficient limitations to distinguish from a program.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 2193

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1- 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beginning Visual C++ 5, by Ivor Horton March 1997 in view of McAfee Oil Change, User's Guide 1999.

Claim 1

Ivor teaches creating DLLs (Ivor, page 718, "change function without...")

A method in a data processing system for managing software, the method comprising: receiving a solution to a problem with a program on a client data processing system (Oil, pages 14 – 15, 17-18), wherein the solution includes a process created while solving the problem on the client data processing system and wherein the process is executable on another client data processing system (Ivor – teaches creating DLLs which run on many different machines and Oil teaches distributing over the Internet to many different machines); selectively updating a database to reflect the solution (Oil, teaches on page 17, saving updates to different products – the ability to select specific types of product to get their specific updates shows the updates were selectively saved); and distributing the solution to the another client data processing system (Oil, pages 14-15 and 17-18). Ivor teaches building code which can be used to fix programs on computers. Ivor teaches mechanisms which are intended to be distributed but not the mechanism of distribution. It is Oil that teaches the distribution of updates of many clients over the Internet manually and automated. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the tools of Ivor and Oil, together because keeping software up to date with the latest updates makes computers more reliable.

Claim Interpretation

No server is claimed. Database is claimed and could be on a client. The term database in the broadest reasonable interpretation is a file. The claim reads on writing a fix to a program and using it on another computer regardless of transportation mechanism.

Applicant's claim to be *the first and sole inventor* to invent receiving a fix to a program (solution) on a client. The receiving of the solution by any transport mechanism including a person with the fix on a floppy walking to another computer. The fix is an executable and can run on another computer. Selectively updating a database could be saving the program and distributing the program by any means including walking a floppy with the program executable to another computer.

Claim 2

The method of claim 1, wherein the distributing step is initiated in response to a request for a solution to the problem in the program from a requestor on the another client data processing system. (Oil, page 19, Internet connected update immediately).

Claim Interpretation

Applicant's claim could be one user sending an email requesting the fix send in email as an attachment.

Claim 8

Art Unit: 2193

The method of claim 2, wherein the requestor is an agent process.
(Oil, page 20, middle of page updates date and time not needing a human – is an agent).

Claim 3

The method of claim 1, wherein the solution further includes a set of changes made on the client data processing system. (Ivor, page 717, DLL collection of modules)

Claim Interpretation

Applicant claims to be the first to store more than one fix on a floppy which can be walked from one computer to another to fix problems.

Claim 4

The method of claim 3, wherein the process is recorded as a script, wherein the script may be played in another data processing system to fix an instance of the program located on the another data processing system. (Oil, page 19, Internet connected update immediately).

Claim Interpretation

Writing a script to perform a fix.

Claim 5

The method of claim 4, wherein the script is for a set of steps performed by a technician on the client data processing system to solve the problem with the program. Ivor, page 717, collection.

Claim Interpretation

Writing a fix.

Claim 6

The method of claim 1, wherein the process includes at least one of changing configuration parameters, replacing a dynamic link library, replacing an executable file, and installing a patch. As per claim 1 (Ivor DLL, page 717).

Claim Interpretation

Fix is in DLL form

Claim 7

The method of claim 1, wherein the solution is received from an agent process on the client data processing system. (Oil, page 20, middle of page updates date and time not needing a human – is an agent).

Claim 9

The method of claim 1, wherein the updating step comprises: receiving the solution to the problem to form a received solution to the problem; determining whether a current solution to the problem is in the database; responsive to the current solution being in the database, comparing the received solution to the current solution; using the comparison to determine whether to update the current solution in the database with the received solution; and responsive to a determination to update the current solution, updating the current solution in the database with the received solution. The rejection for claim 1 teaches Ivor as a solution builder

Art Unit: 2193

and Oil as having updates selectively for products. The determination claimed can be a human function which is not given patent able weight.

Claim Interpretation

The steps could be performed by a human to check if a solution for a problem exists. Looking at and comparing proposed solutions.

Claim 10

The method of claim 9, wherein the updating step further comprises: responsive to the current solution being absent from the database, saving the received solution as the current solution to the problem. (Oil, teaches on page 17, saving updates to different products – the ability to select specific types of product to get their specific updates shows the updates were selectively saved)

Claim Interpretation

Human lookup and determine to save file.

Examiner Note: Currently, the scope of the claim does not eliminate a human performing this function. Any amendment to indicate the process of determining the uniqueness and absence (claim 9). Figure 9 and the support in the Specification for this figure are possibly unique. However, the process must be claimed as under program with the wording as supported by the Specification.

Claim 11

An autonomic solutions repository comprising: a solutions database, wherein solutions to software problems are stored in the database and wherein the solutions include instructions executed by an agent process on a client without requiring human intervention; and a server process, wherein the server process receives solutions; selectively updates the database with the new solutions; and distributes the solution to another client. See the rejection for claim 1 and (Oil, page 20, middle of page updates date and time not needing a human – is an agent).

Claim 12

The autonomic repository of claim 11, wherein the solutions include recorded steps that are played by an agent to initiate a repair on a client for a particular problem. (Oil, page 20, middle of page updates date and time not needing a human – is an agent).

Claim 13

A data processing system for managing software, the data processing system comprising: a bus system; a communications unit connected to the bus system; a memory connected to the bus system, wherein the memory includes a set of instructions; and a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to receive a solution to a problem with a program on a client data processing system, wherein the solution includes a process created while solving the problem on the client data processing system and wherein the process is executable on another client data processing system; selectively update a database to reflect the solution; and distribute the solution to the another client data processing system. See the rejection for claim 11 (environment such as bus – licensing agreement shows intended and support environments for a client RAM, CD-ROM etc inherently connected with a bus).

Claim 14

A data processing system for managing software, the data processing system comprising: receiving means for receiving a solution to a problem with a program on a client data processing system, wherein the solution includes a process created while solving the problem on the client data processing system and wherein the process is executable on another client data processing system; updating means for selectively updating a database to reflect the solution; and distributing means for distributing the solution to another client data processing system. See the rejection for claim 1.

Claim 15

The data processing system of claim 14, wherein the solution further includes a set of changes made on the client data processing system. See the rejection for claim 3.

Claim 16

The data processing system of claim 15, wherein the process is recorded as a script, wherein the script may be played in another data processing system to fix an instance of the program located on the another data processing system. See the rejection for claim 4.

Claim 17

The data processing system of claim 15, wherein the script is for a set of steps performed by a technician on the client data processing system to solve the problem with the program. See the rejection for claim 5.

Claim 18

The data processing system of claim 14, wherein the solution includes at least one of changing configuration parameters, replacing a dynamic link library, replacing an executable file, and installing a patch. See the rejection for claim 6.

Claim 19

A computer program product in a computer readable medium for managing software, the computer program product comprising: first instructions for receiving a solution to a problem with a program on a client data processing system, wherein the solution includes a process created while solving the problem on the client data processing system and wherein the process is executable on another client data processing system; second instructions for selectively updating a database to reflect the solution; and third instructions for distributing the solution to another client data processing system. See the rejection for claim 1.

Claim 20

The computer program product of claim 19, wherein the solution further includes a set of changes made on the client data processing system. See the rejection for claim 3.

Claim 21

Art Unit: 2193

The computer program product of claim 20, wherein the process is recorded as a script, wherein the script may be played in another data processing system to fix an instance of the program located on the another data processing system. See the rejection for claim 4.

Claim 22

The computer program product of claim 20, wherein the script is for a set of steps performed by a technician on the client data processing system to solve the problem with the program. See the rejection for claim 5.

Claim 23

The computer program product of claim 19, wherein the solution includes at least one of changing configuration parameters, replacing a dynamic link library, replacing an executable file, and installing a patch. See the rejection for claim 6.

Claim 24

The computer program product of claim 19, wherein the solution is received from an agent process on a client data processing system. See the rejection for claim 7.

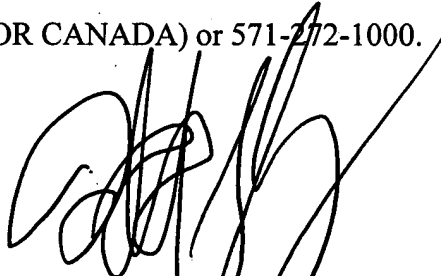
Correspondence Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The examiner can normally be reached on during the work week..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2193

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd Ingberg
Primary Examiner
Art Unit 2193

TI